

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a transmittal from the County Executive recommending approval by the County of Westchester (“County”) of a bond act (“Bond Act”) in the amount of \$11,000,000 to finance capital project SPC03 – Port Chester Waste Water Treatment Plant – Electrical System Upgrade (“SPC03”). The Bond Act, which was prepared by the law firm Norton Rose Fulbright, will finance a portion of the cost of the design, construction management and construction for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning systems at the County’s Port Chester Wastewater Treatment Plant, including incidental expenses in and for the benefit of the Port Chester Sanitary Sewer District.

While the current request is needed in connection with SPC03, Bond Act No. 5-2021 consolidated the financing authorization for projects SPC03 and SPC09 - Port Chester Waste Water Treatment Plant HVAC Systems Upgrade (“SPC09”) into one bond act. Therefore, the \$11,000,000 bonds will be available for both projects if the attached bond act is adopted. Bonds have been issued under the authorization of prior Bond Act No. 5-2021, so that bond act will not be amended.

The Department of Environmental Facilities (“Department”) has advised that additional construction funding is required for the replacement and upgrade of the plant electrical system, which includes but not limited to the replacement of the electrical switch gear, electrical panel boards, the motor control centers, emergency generators and any other related ancillary equipment, which is reaching the end of its useful life.

Design is currently being undertaken by consultants and is expected to be completed by the end of the first quarter of 2024. It is estimated that construction will take 36 months to complete and will begin after award and execution of the construction contracts.

The Planning Department has advised your Committee that based on its review, SPC03 may be classified as a Type “II” action pursuant to the State Environmental Quality Review Act (“SEQR”) and its implementing regulations, 6 NYCRR Part 617. Therefore, no environmental

review is required. Your Committee has reviewed the annexed SEQR documentation and concurs with this recommendation.

It should be noted that your Honorable Board has previously authorized bonding in connection with these capital projects as indicated in the annexed fact sheet.

It should be noted that an affirmative vote of two-thirds of the members of your Honorable Board is required in order to adopt the Bond Act. Your Committee recommends the adoption of the proposed Bond Act.

Dated: March 25th, 2024
White Plains, New York

Louise Zelle Joh
Colin O'Donoghue
Tom Woot
Maryann
David J. Tubio
Paul W.
Smith
Sage

Louise Zelle Joh
Tom Woot
Maryann
Smith
Sage

COMMITTEE ON

c/mg/1-23-24

Budget & Appropriations

Public Works & Transportation

FISCAL IMPACT STATEMENT

CAPITAL PROJECT #: SPC03

NO FISCAL IMPACT PROJECTED

SECTION A - CAPITAL BUDGET IMPACT

To Be Completed by Budget

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

Source of County Funds (check one):

Current Appropriations

Capital Budget Amendment

SECTION B - BONDING AUTHORIZATIONS

To Be Completed by Finance

Total Principal \$ 11,000,000 PPU 30 Anticipated Interest Rate 3.29%

Anticipated Annual Cost (Principal and Interest): \$ 562,886

Total Debt Service (Annual Cost x Term): \$ 16,886,580

Finance Department: Interest rates from March 5, 2023 Bond Buyer - ASBA

SECTION C - IMPACT ON OPERATING BUDGET (exclusive of debt service)

To Be Completed by Submitting Department and Reviewed by Budget

Potential Related Expenses (Annual): \$ -

Potential Related Revenues (Annual): \$ -

Anticipated savings to County and/or impact of department operations

(describe in detail for current and next four years):

SECTION D - EMPLOYMENT

As per federal guidelines, each \$92,000 of appropriation funds one FTE Job

Number of Full Time Equivalent (FTE) Jobs Funded: 119

Prepared by: Joe Brown

Title: Capital Program Coordinator

Department: DEF


Date: 3/5/24

Reviewed By: 

Budget Director

Date: 3/7/24

TO: Michelle Greenbaum, Senior Assistant County Attorney
Jeffrey Goldman, Senior Assistant County Attorney
Carla Chaves, Senior Assistant County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: January 26, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR CAPITAL PROJECT:
SPC03 Port Chester Waste Water Treatment Plant – Electrical System Upgrade**

PROJECT/ACTION: Per Capital Project Fact Sheet as approved by the Planning Department on 01-23-2024 (Unique ID: 2431)

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no environmental review is required for the proposed action, because the project or component of the project for which funding is requested may be classified as a **TYPE II action** pursuant to section(s):

- **617.5(c)(2):** replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part.
-

COMMENTS: None.

DSK/dvw

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Lawrence Soule, Budget Director
Tami Altschiller, Assistant Chief Deputy County Attorney
Dianne Vanadia, Associate Budget Director
Joseph Brown, Capital Program Coordinator, Department of Environmental Facilities
Susan Darling, Chief Planner
Michael Lipkin, Associate Planner
Claudia Maxwell, Principal Environmental Planner

ACT NO. _____ - 2024

BOND ACT DATED _____, 2024.

A BOND ACT OF THE COUNTY OF WESTCHESTER, NEW YORK, AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$11,000,000 BONDS TO PAY A PORTION OF THE \$45,200,000 ESTIMATED MAXIMUM COST OF THE DESIGN, CONSTRUCTION MANAGEMENT, AND CONSTRUCTION OF THE REPLACEMENT AND UPGRADING OF THE ELECTRICAL SYSTEM AND REPLACEMENT OF THE HEATING, VENTILATING AND AIR CONDITIONING SYSTEM AT THE PORT CHESTER WASTEWATER TREATMENT PLANT, FOR THE BENEFIT OF THE PORT CHESTER SANITARY SEWER DISTRICT.

WHEREAS, this Board previously authorized, pursuant to Bond Act No. 68-2014, the issuance of \$2,150,000 bonds to finance the design and construction management costs of the replacement and upgrading of the electrical system at the Port Chester Wastewater Treatment Plant ("SPC03");

WHEREAS, this Board previously authorized, pursuant to Bond Act No. 91-2014, the issuance of \$2,300,000 bonds to finance the design and construction management costs of the replacement of heating, ventilating and air conditioning equipment at the Port Chester Wastewater Treatment Plant ("SPC09");

WHEREAS, this Board previously authorized, pursuant to Bond Act No. 5-2021, to (i) combine the purposes described in Bond Acts No. 68-2014 and 91-2014, (ii) expand the scope to include construction costs for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning system at the Port Chester Wastewater Treatment Plant, and (iii) increase the estimated maximum cost of such combined purposes and the amount of bonds authorized to be issued for such purposes by \$29,750,000 for a total aggregate amount of \$34,200,000;

WHEREAS, obligations have been issued under Bond Act No. 5-2021.

WHEREAS, the plan for the financing of the estimated maximum cost of such capital purpose, as hereinafter set forth in this Bond Act, is in conformity with such capital budget; and

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act, to the extent required, have been performed; and

WHEREAS, the cost of said class of objects or purposes shall be specially assessed against properties in the County's Port Chester Sanitary Sewer District, which are specially benefitted by said class of objects or purpose; and

WHEREAS, it is now desired to authorize the financing of such capital purpose; NOW, THEREFORE,

BE IT ENACTED, by the Board of Legislators of the County of Westchester, New York, by the affirmative vote of not less than two thirds of the entire voting strength thereof, as follows:

Section 1. There are hereby authorized to be issued \$11,000,000 bonds of the County of Westchester to finance a portion of the cost of the design, construction management and construction for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning system at the Port Chester Wastewater Treatment Plant, including incidental expenses in connection therewith, which is a class of objects or purposes, in and for the benefit of the Port Chester Sanitary Sewer District. To the extent that the details of the aforesaid class of objects or purposes set forth in this act are inconsistent with any details set forth in the current Capital Budget of the County, such Budget shall be deemed and is hereby amended to the extent inconsistent herewith.

Section 2. It is hereby determined that the estimated maximum cost of the aforesaid class of objects or purposes is \$45,200,000, and that the plan for the financing thereof is by the issuance of (i) \$34,200,000 bonds of said County authorized to be issued pursuant to Bond Act 5-2021 and (ii) \$11,000,000 bonds of said County authorized to be issued pursuant to this Bond Act.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is thirty years pursuant to subdivision four of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Commissioner of Finance, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of the County of Westchester, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not paid from the assessment of properties assessable for this purpose in County's Port Chester Sanitary Sewer District, or other sources, there shall annually be levied on all the taxable real property of said County a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the County of Westchester, New York, by the manual or facsimile signature of the Commissioner of Finance and a facsimile of the corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the County Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Commissioner of Finance, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as said Commissioner of Finance shall deem best for the interests of the County; including, but not limited to, the power to

sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, the Commissioner of Finance shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. The Commissioner of Finance is hereby further delegated the power to authorize the sale and issuance of the bonds authorized pursuant to this Bond Act (a) at a discount in the manner authorized by paragraphs e and f of Section 57.00 of the Local Finance Law, (b) at private sale pursuant to the applicable provisions of the Local Finance Law and any regulations of the New York State Comptroller appertaining thereto, including the private sale of bonds at a premium, (c) as capital appreciation bonds or term bonds at public sale or private sale pursuant to the applicable provisions of the Local Finance Law and any regulations of the New York State Comptroller appertaining thereto, and (d) at a variable rate of interest in the manner authorized by Section 54.90 of the Local Finance Law, including notes issued in anticipation thereof. The Commissioner of Finance is hereby authorized to enter into such agreements as said Commissioner of Finance shall determine reasonable and necessary to facilitate the issuance, sale, resale and, or repurchase of such bonds or notes pursuant to the provisions of Section 54.90 of the Local Finance Law. Such bonds and, or notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Commissioner of Finance. Such notes shall be of such terms, form and contents as may be prescribed by said Commissioner of Finance consistent with the provisions of the Local Finance Law.

Section 10. The Commissioner of Finance is hereby further authorized, at his or her sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a bond, and, or note issue of said County in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 11. The intent of this Bond Act is to give the Commissioner of Finance sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and, or notes without resorting to further action of this Board of Legislators.

Section 12. All other matters, except as provided herein, relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the Commissioner of Finance and, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Commissioner of Finance. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the

fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Commissioner of Finance shall determine.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or

2) The provisions of law which should be complied with at the date of publication of this Bond Act are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This Bond Act shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this Bond Act, no moneys are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 15. This Bond Act, which shall take effect immediately in accordance with the provisions of Section 33.10 of the Local Finance Law and as provided in Section 107.71 of the Westchester County Charter, shall be published in summary form in the official newspaper of said County for purposes of this Bond Act, together with a notice of the Clerk of the County Board of Legislators in substantially the form provided in Section 81.00 of the Local Finance Law.

The foregoing Bond Act was duly put to a vote which resulted as follows:

AYES:

NOES:

ABSENT:

The Bond Act was thereupon declared duly adopted.

* * *

APPROVED BY THE COUNTY EXECUTIVE

Date: _____, 2024

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, the undersigned Clerk of the County Board of Legislators of the County of Westchester, New York, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Board of Legislators of said County, including the Bond Act contained therein, held on _____, 2024, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

I FURTHER CERTIFY that said meeting was (i) open to the general public pursuant to Section 103 of the Public Officers Law or (ii) conducted in conformance with Section 103-a of the Public Officers Law.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

Newspaper and/or Other News Media

Date Given

I FURTHER CERTIFY that PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s) of Posted Notices

Date of Posting

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County Board of Legislators on _____, 2024.

Clerk of the County Board of Legislators
of the County of Westchester, New York

(CORPORATE
SEAL)

LEGAL NOTICE

A Bond Act, a summary of which is published herewith, has been adopted by the Board of Legislators on _____, 2024 and approved by the County Executive on _____, 2024 and the validity of the obligations authorized by such Bond Act may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Westchester, in the State of New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the Constitution.

Complete copies of the Bond Act summarized herewith shall be available for public inspection during normal business hours at the Office of the Clerk of the County Board of Legislators of the County of Westchester, New York, for a period of twenty days from the date of publication of this Notice.

ACT NO. _____-2024

A BOND ACT OF THE COUNTY OF WESTCHESTER, NEW YORK, AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$11,000,000 BONDS TO PAY A PORTION OF THE \$45,200,000 ESTIMATED MAXIMUM COST OF THE DESIGN, CONSTRUCTION MANAGEMENT, AND CONSTRUCTION OF THE REPLACEMENT AND UPGRADING OF THE ELECTRICAL SYSTEM AND REPLACEMENT OF THE HEATING, VENTILATING AND AIR CONDITIONING SYSTEM AT THE PORT CHESTER WASTEWATER TREATMENT PLANT, FOR THE BENEFIT OF THE PORT CHESTER SANITARY SEWER DISTRICT.

Class of objects or purposes: to pay a portion of the design, construction management and construction costs for the replacement and upgrading of the electrical system and replacement of the heating, ventilating and air conditioning system at the Port Chester Wastewater Treatment Plant

period of probable usefulness: thirty years

amount of obligations to be issued: \$11,000,000

Dated: _____, 2024
White Plains, New York

Clerk of the County Board of Legislators of the County of Westchester, New York

CAPITAL PROJECT FACT SHEET

Project ID:* CBA **Fact Sheet Date:***
01-10-2024
 SPC03

Fact Sheet Year:* **Project Title:***
 2024 PORT CHESTER WASTE WATER
TREATMENT PLANT - ELECTRICAL
SYSTEM UPGRADE **Legislative District ID:**
6,

Category* **Department:*** **CP Unique ID:**
 SEWER AND WATER DISTRICTS ENVIRONMENTAL FACILITIES 2431

Overall Project Description

This project will fund the replacement and upgrade of the plant electrical system, and include replacement of electrical switch gear, panelboards, motor control centers, emergency generators and any other ancillary equipment reaching the end of its useful life.

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Best Management Practices | <input checked="" type="checkbox"/> Energy Efficiencies | <input checked="" type="checkbox"/> Infrastructure |
| <input type="checkbox"/> Life Safety | <input type="checkbox"/> Project Labor Agreement | <input type="checkbox"/> Revenue |
| <input type="checkbox"/> Security | <input type="checkbox"/> Other | |

FIVE-YEAR CAPITAL PROGRAM (in thousands)

	Estimated Ultimate Total Cost	Appropriated	2024	2025	2026	2027	2028	Under Review
Gross	32,900	21,900	11,000	0	0	0	0	0
Less Non-County Shares	0	0	0	0	0	0	0	0
Net	32,900	21,900	11,000	0	0	0	0	0

Expended/Obligated Amount (in thousands) as of : 2,047

Current Bond Description: Additional construction funding for the replacement and upgrade of the plant electrical system, which includes but not limited to the replacement of the electrical switch gear, electrical panel boards, the motor control centers, emergency generators and any other related ancillary equipment.

Financing Plan for Current Request:

Non-County Shares:	\$ 0
Bonds/Notes:	11,000,000
Cash:	0
Total:	\$ 11,000,000

SEQR Classification:

TYPE II

Amount Requested:

11,000,000

Expected Design Work Provider:

- County Staff Consultant Not Applicable

Comments:

Energy Efficiencies:

NEW UPDATED EQUIPMENT AND LIGHTING WILL CONSUME LESS ENERGY.

Appropriation History:

Year	Amount	Description
2013	2,150,000	DESIGN AND CONSTRUCTION MANAGEMENT OF PLANT ELECTRICAL SYSTEM UPGRADES
2015	7,750,000	CONSTRUCTION
2021	12,000,000	CONSTRUCTION
2024	11,000,000	ADD'L CONSTRUCTION

Total Appropriation History:

32,900,000

Financing History:

Year	Bond Act #	Amount	Issued	Description
14	68	0	0	PORT CHESTER WWTP - ELECTRICAL SYSTEM UPGRADE
21	5	21,900,000	838,504	PORT CHESTER WWTP - ELECTRICAL SYSTEM UPGRADE (1469)

Total Financing History:

21,900,000

Recommended By:

Department of Planning
MLLL
Date
01-23-2024

Department of Public Works
RJB4
Date
01-23-2024

Budget Department
DEV9
Date
01-23-2024

Requesting Department
JWBA
Date
01-23-2024

PORT CHESTER WASTE WATER TREATMENT PLANT - ELECTRICAL SYSTEM UPGRADE (SPC03)

User Department : Environmental Facilities
Managing Department(s) : Environmental Facilities ; Public Works ;
Estimated Completion Date: TBD

Planning Board Recommendation: Project without physical planning aspects of concern to the Westchester County Planning Board.

FIVE YEAR CAPITAL PROGRAM (in thousands)

	Est Ult Cost	Appropriated	Exp / Obl	2024	2025	2026	2027	2028	Under Review
Gross	32,900	21,900	2,047	11,000					
Non County Share									
Total	32,900	21,900	2,047	11,000					

Project Description

This project will fund the replacement and upgrade of the plant electrical system, and include replacement of electrical switch gear, panelboards, motor control centers, emergency generators and any other ancillary equipment reaching the end of its useful life.

Current Year Description

The current year request funds construction cost escalation.

Current Year Financing Plan

Year	Bonds	Cash	Non County Shares	Total
2024	11,000,000			11,000,000

Impact on Operating Budget

The impact on the District Operating Budget is the debt service associated with the issuance of bonds.

Appropriation History

Year	Amount	Description	Status
2013	2,150,000	Design and construction management of plant electrical system upgrades	DESIGN
2015	7,750,000	Construction	CONSTRUCTION
2021	12,000,000	Construction	CONSTRUCTION
Total	21,900,000		

Prior Appropriations

	Appropriated	Collected	Uncollected
Bond Proceeds	21,900,000	838,504	21,061,496
Total	21,900,000	838,504	21,061,496

Bonds Authorized

Bond Act	Amount	Date Sold	Amount Sold	Balance
68 14				
5 21	21,900,000	12/01/21	838,504	21,061,496
Total	21,900,000		838,504	21,061,496